

EXHIBIT 49

U.S. v. Allen
Audio Transcript

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Participants: John Ewan (BBA), FX & MM Committee, Mike Tomlinson

Ewan: It's very faint, sorry. Can you repeat that?

Tomlinson: [Unintelligible]

Ewan: Sorry, Mike, um, so Mark Tomlinson has just commented. Do you have any comments that you'd like to make on this?

Tomlinson: No, I mean honestly, you've been in spoken to our Sterling traders and also the Sterling guy who sets the LIBOR, and on the back of what he's produced and has shown yourself, I'm fairly happy of where his LIBOR is being fixed.

Ewan: Um, from my point of view on this one, this was brought to me and um, we looked to what was going on that week and um what is the case that um Deutsche put down their LIBORs, RBS put *up* their LIBORs, so I don't know whether this was based on the back of any derivative trading going on. I'm happy that the rates are representative, so from that point of view I'm fine. If, and if it's not possible, I don't think, for me to prove one way or the other that this was being done to suit a trade going on. Whether or not it's the case, um, I would encourage any member that is setting LIBORs and also putting trades on in this manner, if you want to make sure that there can be no suspicion at all about what you're doing, certain banks choose to call me either as or before they set their rate to tell me what they're going to do, and if you do that, it does mean that there can no longer be after the fact any accusation made in the point. Now I don't want everybody here to ring me up as or before they set up their LIBORs every day. That's frankly going to make your life intolerable and it will make my life intolerable. But, um, there are circumstances under which banks will sometimes move their LIBORs in large or perhaps surprising manners, they'll have their reasons for doing it. If you tell me beforehand I have been able to represent this committee, I was told upfront this was going to happen, it's not a problem in the future.

Tomlinson: How would you find it surprising? It shouldn't be a surprise to the trader concerned.

- Ewan: No, that's absolutely fine. But what won't be a surprise to the trader, it might be a surprise to everybody else. Banks sometimes move their LIBORs by a handful of basis points, which in this market is a long way and um, sometimes they do that overnight rather than over a period of a couple of weeks. I don't have a problem with them doing that so long as there's a reason for doing it. However, if you move your LIBORs sharply, it gets noticed and if you tell me that you're going to do it and why you're going to do it, it means . . .
- Tomlinson: If a mistake has been made, Thompson Reuters call you and say you moved your LIBOR are you happy with that? I don't really think that as a LIBOR setter we should be phoning you and saying we are our moving LIBORs.
- Speaker: [Unintelligible] I think it's more a question of John's convenience, if he knows he's going to get bombarded with calls at twenty to 12.
- Tomlinson: When LIBORs have come out, he can say actually I've had this conversation with the guy at X bank and he has reasonably demonstrated to me that the levels he is raising his cash is appropriate for that LIBOR which has moved. He acknowledges it has moved. I think that is where we are coming from more than anything else.
- Speaker 4: I think in this instance the reason the bank had an issue is the surprise that most people didn't move or move up on the basis that the turn of the year was now encompassed and one person moving down was seen as slightly surprising. I would add that our LIBOR we did move up but we were still in the lower quartile anyway so we would not have had an effect on the fixing anyway.
[Unintelligible]
- Ewan: Absolutely . . .
- Tomlinson: I think we need to get a letter out to all of the fixers, reinforcing what the rules are, especially for cash against derivatives, [unintelligible] website . . . I don't think there's a point of action to be taken against individual organizations under LIBOR, [unintelligible] basis point in accordance with law, both parties could prove their LIBORs were appropriate and happened to John's satisfaction [unintelligible]. Look, I think it's absolutely clumsy if guys are doing this in the trading room [unintelligible] LIBOR [unintelligible] completely clumsy, and our people get picked up as well and I hope you guys are looking out for it as well. I don't want to be phoning up somebody's group treasurer and saying you have got some muppet on your cash desk that is [unintelligible] your LIBOR fixings. Can we please get that message back to the desks.
- Ewan: I would, yeah, I would stress because all inputs and all methodology and all outputs are seen, it is apparent to anybody on this committee and equally apparent to the regulators.
- Speaker ?: That's certainly true

Speaker ? : Picking up on one last point. John, um, your point about this being a gray area perhaps there's some chatter about, one thing that we can do, um is we could look at the effect of narrowing those bands. Those five basis point bands were set at a time when (a) the market was very volatile and (b) the rates were considerably higher. And so those five basis points, because if we imposed a narrower band at that time, the alarm bells would have rung on every fix every day. In that markets are now quieter and rates are close to 0, would it be worth looking at tightening those bands?

Speaker ? : What is the purpose of the phone call ? I always thought the purpose of the phone call was to say . . . you have moved a certain amount did you mean to do that . . .

Speaker ? : It's a fat finger check.

Tomlinson: It is. Exactly right. So I think in that sense [unintelligible] the spread is okay. [unintelligible] If you put in the wrong big figure, they're going to give you a problem, and say—you know.

Ewan: No, no, I agree with your point exactly and that is the purpose of the call, but if the market regards that as being a gray area, um we can do two things. One is that we can tell, we can tell all contributors it's not a gray area, don't do this, and the second thing we can do is we can tighten that up by bringing in the bands.

[unintelligible]

Tomlinson: If you were to look at this clearly, you would take each individual bank over a set period and look at the movement that's happening against the absolute levels of the LIBOR and you will clearly see that this is a true issue they would be doing that where certain banks are playing in and out when it's not necessarily moving that much.

Speaker ? : So it's not the phone call you are talking about.

Tomlinson: No it's not the phone call system it's the moving in and out. Constantly moving in and out.

Speaker ? : Without drawing attention to themselves.

Speaker ? : Exactly [unintelligible].

Tomlinson: [Unintelligible] It's not the market isn't moving, by three or four basis points within that range, or five basis points within a tighter range.

Speaker 3: You're saying the LIBOR, that you should be fairly consistent, it should be consistent of the raising where you can raise funding in future days, it can't be just one trade just happened to be low [unintelligible]. I can't think of any reason why you should ever be up and down, up and down.

Speaker ? : Exactly, that's the issue. Private phone call between Reuters and the bank . . . fat finger

Speaker 3 : But if people are using five basis points, their own threshold to promote that kind of activity then by investigating that they themselves need to shrink . . .

[unintelligible]

Ewan : Okay, how about this then. We'll do that piece of analysis on every contributor bank and we will pick um, say, um, let's do on the most important ones first. Let's do 1 and 3, dollar, Suisse and sterling, and we'll do an analysis and see if anyone is doing that, and we'll bring that to the attention of this group to the next meeting or to the main meeting, depending on how much work that turns out to be.

[unintelligible]

Tomlinson : Am I missing something here? I mean, it's been a discussion I might not have been on but if inflation comes out 5% and King goes, we're not going to cut, 2 days apart, you're gonna get those sort of shifts. [Unintelligible]. Sterling, but I must admit I would go, I'd be defensive because that's the reality of the market at that moment. [Unintelligible]. So you are saying that it's one or two individuals who are outside of the normal move per day, is that what you're implying? [Unintelligible]. So they might all shift five to removing two or [unintelligible]. So it's not the market move . . .

Ewan : No, no, no, right, it's basically it's trying to negate the effect of what the market is doing and then seeing how and what people are moving idiosyncratically when you take it out that effect.

Tomlinson : I mean, my fear is EURIBOR, which I do set I am very volatile on because of the reserve and that sort of thing. If it was EURIBOR, I mean you see those sort of volatile moves. I mean you see those sort of volatile modes in French banks. I think we should, you know, within the letter, draft a letter up, ping it round before we send it, I think the idea is guys you are being watched and we have got to enforce as well. We are the representatives from our organizations. [Unintelligible] Words can be had. The reaction is we will get an appropriate letter drafted to every individual who's responsible for every LIBOR fixing . . . defining what the rules are with a worded paragraph saying, You are being watched. Big Brother is watching you and patterns along with analysis.

Speaker ? : It is a very serious issue and a real [unintelligible] guys on the desk have to realize it [unintelligible].

Speaker ? : None of that is particularly good news but we all know a bit of tinkering around . . . we have these spotters . . . are we happy with that gentleman as a course of action . . .

Speaker ? : It will be in the minutes though?

Speaker ? : Oh yes it will be in the minutes, don't worry about that.

Speaker ? : Definitely will be in the minutes.

Speaker ? : Um, Mike, Mark, are you happy with the outcome of this?

Speaker ? : Yes.

Speaker ? : You gonna go back and check one and three months, Sterling, dollars, Suisse LIBORs over the last x amount of months for each member panel bank?

Speaker ? : Yes, with the effect of the rate itself stripped out to see if anybody is . . .

Speaker ? : Up or down ?

Speaker ? : Yeah, and that's for the 20 odd banks I have here on the panels.

Speaker ? : Yes.

Speaker ? : Yeah, yeah, that's a good idea.

Speaker ? : And Mike you probably also heard there is a letter going out reminding people of their responsibilities and that they are being watched.

Speaker ? : Well, I mean, that's taken as a given anyway, isn't it? But yes.

Speaker ? : . . . Move on. Anybody else want to add anything on that? Okay, thank you. [unintelligible]. Thank you very much. [unintelligible]

Ewan: LIBOR managers update . . . sorry

Speaker 1: Um, well I think the big thing that we've got going on is the um, dollar panel expansion which you mentioned already. Thompson Reuters just told me they have tested that, it's ready to go. The four banks that we're going to add are standing ready and are good to go with the contributions from next Tuesday. We've told everybody in terms of regulating potential banks are all up to speed. All of the other data vendors, um, we've taken the LIBOR fees from Thomson Reuters who knows this is happening, so you'll be able to see all 20 banks from Bloomberg, Telekurs, IDC, whoever is your favorite data vendor. And that's pretty much the big one um from me. We have, as you know, a LIBOR board that looks after the corporate affairs of LIBOR Limited and um, that board has seen in papers from these meetings. They are not interested in trying to run the fixing. They are very clear that is a role that rests here. Um, nonetheless, a couple of members of that committee would like to come along and observe proceedings at one of these meetings. So if it's okay by members, I will invite along our chairman who is Gordon Powell and another of our non-executive directors who

- Speaker 1: It was a very interesting conversation, he did ask if he could be invited as an observer.
- Speaker 2: I don't have a problem with it [unintelligible].
- Speaker ? What message could it send?
- Speaker 2: And again, if you came to embarrassment or something testy, I've had that conversation [unintelligible], really don't want to be washing anything dirty in public, [unintelligible] but then a formal statement [unintelligible].
- Speaker ? : Um, we don't have many of those [unintelligible]. On a wider perspective of course if you have any issues with Swiss National Bank ?
- Speaker 2: If you do not have a problem with that, I'm actually happy to . . . go back and offer it. We are setting a benchmark interest rate.
- Speaker ? : 3 month LIBOR is there setting in.
- Speaker 1: But also we have our [unintelligible].
- Speaker 2: [Unintelligible] What he will do is go back and tell his contemporaries in Europe that he has attended this meeting.
- Speaker ? : And people are meeting and getting round a table and are airing their concerns.
- Speaker ? : It's a proper committee doing its job in the markets best interest.
- Speaker 2: Don't forget the accusations of smoke filled rooms, we are all fixing it.
- Speaker ? : I still think there is a bit of danger involved?
- Speaker ? : Could we start by offering to the observer of the one meeting [unintelligible] who comes after that?
- Speaker 2: Yes we'll make some [unintelligible] chat, the guy from the [unintelligible] division and there's no way that we [unintelligible] and I'll give him a ring and uh, we're all here anyway. [Unintelligible]
- [unintelligible] 49:37.7-50:13.8
- Speaker 2: There's no way we would give them a formal invite if they were not going to accept it.
- Speaker 1: The Bank of England, the Fed, and the FSA have turned down invitations to attend on the grounds that they are worried it would look like they are giving their imprimatur view and which I think is a decent reason. I personally don't think that simply sitting in on one meeting has that effect but I can see as regulator that might be your concern.